



**The CIP Society
Ethics Series**

Delay Tactics

The CIP Society
Insurance Institute
of Canada

The CIP Society represents more than 17,000 graduates of the Insurance Institute of Canada's Fellow Chartered Insurance Professional (FCIP) and Chartered Insurance Professional (CIP) Programs. The CIP Society, through articles such as this, is working to bring ethical issues to the forefront and provide learning opportunities that enhance the professional ethics of all insurance professionals.

What should a broker do upon discovering that a producer has intentionally failed to advise clients about a necessary document or piece of information until a sales contest was under way, in order to ensure that new sales were revealed during contests? In doing so, clients felt they were fully covered when, in fact, they were not. Brokers agree this violates RIBO's rules.

A competitive producer working in a brokerage office enjoyed the accolades and notoriety that resulted from his record of high production and overall sales achievement. But there was a dark side to his competitive spirit, and he was also a "win at all costs" player.

One of his techniques in stacking the deck in his favour during contests was to purposely delay the setting up of client accounts outside of contest periods, and present new sales within the contest time period. This approach is often referred to as "sleeving" the sale, only to reveal it when needed. To help achieve this, he would intentionally omit advising a client about a necessary document or piece of information until such time as a sales contest was under way. Then he would contact the client and advise that the sale was rejected pending the missing requirements.

Clients often felt that they were fully covered throughout that entire time period, but in fact

may not have been. The producer did not see a problem with his actions as he felt he was not engaged in activities such as forgery or theft.

- What are the implications of his actions for his clients? His brokerage? The industry?
- What can the broker do to remedy the situation with his clients?
- What can management do to encourage ethical and friendly competition between brokers?

Cindy Duncan

Chief Operating Officer
Baird MacGregor Insurance Brokers LP

Philomena Comerford, CIP

CEO and President
Baird MacGregor Insurance Brokers LP

There are serious negative implications to this practice. The failure to provide documents in a timely fashion might negatively affect the orig-

inal quotation and even result in a withdrawal of the quotation. Also, should a claim occur during the “stall” period, the client could face an uninsured loss that would otherwise have been covered had the producer not dragged his heels.

The practice clearly violates the RIBO code of ethics, and the principal broker and the producer might be subjected to a disciplinary hearing should a customer file a complaint. This duplicitous approach to sales gives the industry a bad name because it fails to adhere to appropriate business ethics. Not only could this practice result in an errors and omissions lawsuit, it could also cause a bad faith claim against the brokerage, which could jeopardize both the designated principal broker and the producer’s RIBO licence.

Regulations for brokers in all provinces stipulate that any broker licensed in his or her jurisdiction must refrain from unfair or deceptive practices. If an insurer became aware of this systemic withholding of binding material, the brokerage’s contract with the insurer could also be put in jeopardy.

The principal broker should seriously consider dismissing the producer as this behaviour reflects poorly on the brokerage and could cost the principal broker his or her licence. Also, it puts the brokerage clientele at risk. The reputational harm could be far-reaching.

Alternatively, the producer could be disciplined and made to work with a trusted customer service representative and/or marketer who would ensure that sales are closed in a timely fashion and that necessary documentation is furnished expeditiously.

With respect to business already bound, the principal broker could canvass clientele to ensure that no adverse circumstances arose out of the intentional delays.

Without exception, ethical practices should take precedence over sales objectives. In the long run, putting the customer first and treating the insurers fairly creates an environment of trust and respect with clients, insurers and prospects. Contests can foster unhealthy

competition, but they can be successful if they are team-oriented and recognition is given to the entire team versus just the producer.

Management should be prepared to walk away from a top earner who does



Contests can foster unhealthy competition, but they can be successful if they are team-oriented and recognition is given to the entire team versus just the producer.

not play by the rules as the reputational cost and the risk is too high.

Anita Morgan, CIP, CRM

Account Manager
Jones Brown Inc.

Producers are required to ensure that the assets of their clients are properly protected and that they are informed of new legislation or products that may affect or enhance their business or personal assets coverage. As clients depend on their insurance professional to advise them of products, the producer may cause undue financial hardship to the client because a significant coverage may not have been included in the policy at the time of loss.

In this scenario, the producer, by his actions, is not fostering good faith with his clients. By not advising the clients of their exposures, he is opening himself to a lawsuit in the event that a loss occurs. Not only is his reputation at stake, but also, his brokerage may have an E&O situation to handle.

It is a universal theme (unless you are dealing with another individual who understands risk) that insurance is not viewed positively. There is a commonly used phrase that says “bad news travels faster than good news.” As the industry tries to change consumers’ perception of insurance through various forms of media, the producer is not helping to deflect the unfavourable image.

It is great to have a little friendly competition between producers. It not only helps to increase the revenue in the company, but also helps the producers achieve their goals. Where sales competitions are concerned, management should ensure that the company’s guidelines and compliance - along with the regulatory body for brokers - are adhered to at all times. Also, management should ensure that all required documents have been received and signed, and all files have been properly documented, before announcing the winner.

Maurice Audet

Senior Vice President, Regional Resource Leader,
Risk Research & Solutions
Aon Reed Stenhouse Inc.

“Sleeving” is professional misconduct, and as a principal broker at Aon, if I became aware of anyone doing this I would advise RIBO that I could no longer support his or her licence. I have no doubt that I would have full support of management in this.

As insurance brokers, we have an obligation to act in the best interest of our clients. Once we become aware of an uninsured exposure, it is our obligation to discuss the issue with the client and upon his or her authorization, to proceed to place the coverage. To delay placing coverage to gain a financial or any other advantage violates RIBO’s conflict of interest guidelines.

From a professional liability perspective, our courts do not take kindly to unnecessary delays in placing coverage. A case from British Columbia found a broker liable for not having placed coverage within four hours of being notified that coverage was required. Instead of dealing with the issue immediately, the broker proceeded to a prearranged appointment. In the circumstances of the case, the broker was found liable. This broker's negligence was, in my opinion, far less egregious than is the willful act of "sleeving."

A producer involved in "sleeving" puts his clients at risk, exposes his brokerage firm to lawsuits and generally brings down the public's image of the industry. That the individual would try to justify his or her actions on the grounds that this was not dishonest because it did not involve forgery or theft is beyond comprehension.

Where sales competitions are concerned, management should ensure that the company's guidelines and compliance — along with the regulatory body for brokers — are adhered to at all times.

What can the producer do to remedy the situation with his or her clients? The brokerage firm should immediately notify all of the individual's clients in order to determine if there are any outstanding insurance requests, come clean and fix the problems. The issue should also be reported to RIBO.

As to the individual, this is such a fundamental breach of ethics that he or she should not be in the insurance business.

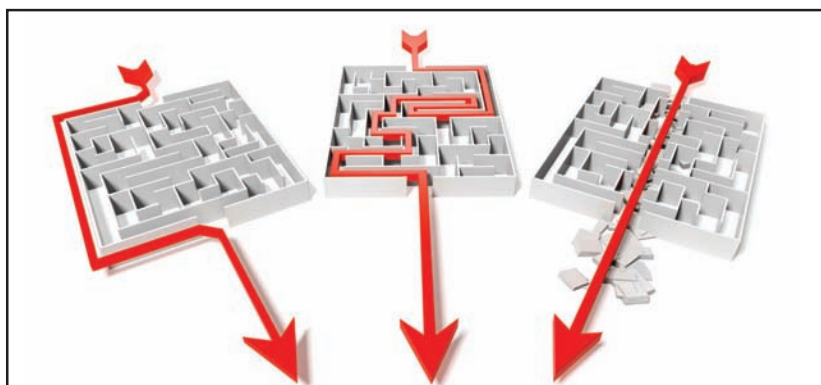
THE LAST WORD

There is a distinction between intentionally and unintentionally delaying the setup of new client accounts, and in our scenario, the producer is breaking various rules of conduct and clearly acting unethically. While he is trying to justify his actions by comparing them to

other wrongs, such as forgery or theft, the fact is that the producer knew what he was doing and he was doing it for personal gain.

When the producer's clients engaged his services, they fully expected a professional transaction to take place; the producer broke his clients' trust. Besides attracting a possible lawsuit, the producer's actions will damage his reputation, the reputation of his company

and that of the industry. Once his clients are made aware that the producer intentionally put them at risk (and they should be made aware as soon as possible), they will understandably have a skeptical view of all parties involved. At a time when the industry is trying to promote its image and clear up misconceptions about risk, such actions can have widespread and damaging consequences. ≡



BROKERS – looking for markets for your specialty, niche and non-standard risks?



Find them in the **Insurance Marketer!**
www.insurancemarketer.com

Published annually in July by *Canadian Underwriter* magazine, the extremely popular **Insurance Marketer** is used daily by brokers across Canada. Both in-print and online at **InsuranceMarketer.com**, the *Insurance Marketer* is *The Source* to assist you in finding a market for even the most unique risk!

We've got you covered in the...

NATIONAL
INSURANCE
MARKETER

Published by:
CANADIAN UNDERWRITER

